

**LOCAL GOVERNMENT SUBGROUP MEETING
BROWNFIELDS STUDY GROUP
SEPTEMBER 14, 2004**

I. Attendees

John Antaramian, City of Kenosha
Darsi Foss, DNR
Nancy Frank, UW-Milwaukee
Judie Gibbon, Dept. of Revenue
Milda Grigaite, Dept. of Revenue
Art Harrington, Godfrey & Kahn
Maureen Hubeler, DNR
Larry Kirch, City of LaCrosse
Dan Kolberg, DNR

Dennis Lawton, STS Consultants
Dennis Mack, DNR
Tom Mueller, TEMCO
Susan Plakus, Dept. of Revenue
Michael Prager, DNR
Andrew Savagian, DNR
Scott Wilson, Ayres Assoc.
Roy Wittenberg, Natural Resources Tech.

II. Welcome, Introductions, Agenda Repair

III. Brownfields Legislative Overview

Darsi Foss gave a brief overview; the initiatives being discussed are the non-fiscal items recommended by the 2000 Brownfields Study Group that were pulled out of the budget by the Legislature; Senator Carol Roessler has indicated a willingness to sponsor brownfields legislation again, and would like to introduce it in January

Tom Mueller: Is it worthwhile to again bring up the statutory change for funding for the SAG grants to have a continuing appropriation, so we have the ability to use all the money?

Foss: That would be something that would go through the budget vs. separate legislation, but it should be discussed at the Sept. 30 meeting of the full Study Group

Michael Prager: Just as some background, that's the reason we're tied to the SAG timeline we have; because of the biennial appropriations, we have to get the applications out and have a deadline of November 12 of this year if we are to spend all the money by the end of the biennium; if there was a continuing appropriation, there may be more flexibility with the program

IV. Local Government Legislative Initiatives

A. Tax Delinquent Properties

Darsi Foss gave brief intro; there are two proposals, both contain language very similar to what the group approved before and "ready to go," final approval of this language is all that is needed at this time

Foss: The first proposal allows for a modified negotiated sale in lieu of bidding for tax delinquent brownfield properties; often a county will have an interested party that wants the property; however, they have to go through a bid process that may kill the project if the developer doesn't get the project

Mueller: Did Sam Tobias ok this already?

Foss: We will double check with Sam but he should be ok with it.

Second one is 75.106 related, regardless of what foreclosure system is used, this would allow the assignment of a tax deed without taking title to the property.

Mueller: Has anyone done it outside of Milwaukee? We did an intergovernmental agreement with Milwaukee (with West Allis), and that's how we did it

Dan Kolberg: We have a total of eight or nine that have been completed, and are all over the state; this provision would be helpful, we've had other counties inquire about it

Mueller: Did you ever get a draft from Greg Hagopian?

Subgroup is ok with forwarding these proposals with the minor changes; can still provide Darsi with comments by the end of the week

B. Local Government Liability Exemption for Certain Types of Solid Waste Facilities

Dan Kolberg provided some background behind the issue: Waste and RR Program staff took a thorough look at the existing language in the draft bill from the 2001-03 biennial budget, and came to the realization that the language was pretty narrow and restrictive; the intent was to include a broader range of sites containing solid waste materials, instead of the current definition; so we got together with RR and Waste to discuss what type of language needed to be in there to include the sites we think need to be in there

Dennis Mack: We explained it to the Waste Management supervisors, and they said they didn't have a problem with it, and thought it could be applied to all landfills; basically we tried to think of potential situations where a landfill owner could walk away, because we didn't want that

Art Harrington: The concern I have is, what if the state goes after the causal party under Superfund

Foss: I thought there was a local government exemption on the federal side for these types of sites

Harrington: This potentially could be broader than the VPLE definition

Prager: We did talk about this issue, and there are many landfills that could be excluded; there was some talk about creating something analogous for VPLE

Harrington: It's not quite the same, because you have to do a full cleanup, but in that case it's more advantageous to the department

Foss: There will be an issue paper on the VPLE side of this issue at the September 30 full Study Group meeting, we're working with Dennis and Dan on that

Harrington: Doesn't the municipal exemption contain an exception if there's a health concern?

Foss: Yes, but it's keyed into re-use

After the overview, group then discussed the various options that could be pursued

Kolberg: What's really created is a spectrum of sites, from the unknown historic sites to the more complex, approved sites with the elaborate systems in place; some of the limitations with each category are discussed in the issue paper

Mack: Basically, licensed facilities are anything that was licensed back to 70's or late 60s; anything after 1978 is licensed and considered an approved facility; anything before 1968 is considered unlicensed; have

about 130-150 approved facilities, generally large, and many are closed; there are about 1,000 licensed landfills, but most of those are smaller and closed

Harrington: What about LGU's that are generators of waste? It would be very clear that the exception to the exemption is that you owned or operated it

Foss: We'll need to do some more research on it

Darsi will call Joe Dufficy at EPA for more information about the federal local government exemption

Dan Kolberg discussed the technical limits to the exemption (please see page 3 of the handout) and went over the issues that Waste and RR have been discussing; for example, the BAL process is not taken into account in the draft bill

Harrington: We should suggest to the large group that the municipal exemption apply to solid waste issues with the following caveats: if there are operational requirements that are ongoing for the site that are health-related, that those would be issues the municipality would undertake IF the RP is not doing it (i.e. unknown, unwilling, etc.); however, you'd still need to fix the 289.46 "transferrance" language so it doesn't run with the land

Group agreed with this suggestion; will make the fixes to the "technical" limits and continue work on the liability issue; fix the transferrance issue and cause of action and bring it to the full Study Group with some options for them to approve/not approve

C. ER TIF

Michael Prager gave a brief history on ER TIF changes; currently there's draft language for LRB 3447/1

Judie Gibbon: We will be developing a TIF manual and an ERTIF manual for the public to use; it will be available on the Internet; hoping for the TIF manual to be done by end of year and the ERTIF to follow shortly after that

Gibbon: We went over the bill section by section; section 21 has already been included in TIF law that just got passed, so that section is not needed

John Antaramian: Why do we need ERTIFs if the changes to the regular TIF law make ERTIFs not needed?

Gibbon: Right now there are seven ER TIDs in the state, and some muni's say it's just a better fit for them

Foss: Maybe this will help you prioritize for when you go to Roessler, in case she asks you for just three items to bring forward

Gibbon: All new TIDs are charged a \$1,000 fee; we would like to include that in here as well and include it as an eligible cost; it is also in the TIFs and funds DOR personnel

Group also reviewed the Legislative Reference Bureau's comments on the ERTIF changes, and DOR had a few additional comments

Harrington: thought there was language about env. insurance costs as an eligible costs for the regular TIF? Why isn't it in the ERTIF?

Antaramian: It should be in there; it would be better for us to clarify

For the DOR comments, the group agreed to disagree with DOR on Section 1 of the bill language, which the group understood DOR has concerns with; DNR will also check regular TIF law to see if environmental insurance is included; if it is, the group agreed to add it to ERTIF; if not, the group agreed to leave it to local attorneys

DOR is also getting a revised, final signed memo on their ERTIF comments to Drew within a week

For the LRB comments, the group agreed to include LRB comment #3 of the handout into the Study Group changes; for comment #5, Study Group via DNR will ask the LRB to provide the language that achieves that

Lunch

IV. Local Government Legislative Initiatives (con't.)

D. Land Recycling Loan

Maureen Hubeler gave a brief update on the LRL; there is \$700,000 left of the \$20 million, however, \$8.3 million in loans have also not been closed yet, some are waiting on grants from other sources before they close on the LRL; a Biennial Finance Plan, which is a summary of the Environmental Fund needs (including the LRL), will be available October 1

Antaramian: I would like to make a recommendation that Bob Ramharter (DNR, Community Financial Assistance) and the DOA budget analyst be in attendance at the September 30 meeting and talk about the Biennial Finance Plan and the LRL; I think we need to discuss this at the larger meeting as to whether we should continue to spend our time and energy on this issue

Darsi agreed to make the request on behalf of the group for Bob Ramharter and the DOA analyst to speak at the September 30 meeting

Adjourn